

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHAWN KEVIN FROST, SR.,

No. C 13-0739 YGR (PR)

Plaintiff,

v.

G. D. LEWIS, et al.,

Defendants.

**ORDER**

**(1) VACATING: (A) APRIL 11, 2014  
DISMISSAL ORDER AND (B) APRIL 11,  
2014 ORDER GRANTING IFP STATUS;  
(2) REOPENING ACTION; AND  
(3) DISMISSING IT AS FILED IN ERROR**

Plaintiff, a state prisoner currently incarcerated at Pelican Bay State Prison, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. He also filed a motion for leave to proceed *in forma pauperis* ("IFP").

In an Order dated April 11, 2014, the Court determined that Plaintiff had raised the same allegations -- stemming from an incident in 2012 -- in another prior prisoner complaint filed in this Court, which, at the time, was ordered served and still pending. *See* Dkt. 5 at 1 (citing Case No. C 12-5226 YGR (PR)). The Court found that because Plaintiff had raised and was litigating the same allegations and claims raised herein in Case No. C 12-5226 YGR (PR), the instant complaint was deemed duplicative and abusive under § 1915A. Therefore, the complaint was dismissed under the authority of 28 U.S.C. § 1915A(b). The Court then directed the Clerk of the Court to enter judgment, terminate all pending motions and close the file.

On the same date, April 11, 2014, the Court also issued a separate Order granting Plaintiff leave to proceed IFP.

On May 21, 2014, Plaintiff informed the Court that he had not intended to file a duplicative action. Dkt. 7 at 1. Instead, Plaintiff claims that he was not certain whether the complaint in his previous action, Case No. C 12-5226 YGR (PR), had been received. *Id.* He alleged that he re-sent the same complaint to the Court because he "desired to preserve [his] right to bring this action within the time frame to file according to the rules and guidelines of the Court." *Id.* However, because he failed to indicate that the complaint should have been filed in Case No. C 12-5226 YGR (PR), it was opened as a new action -- the instant action. Thus, Plaintiff apologizes for his "error."

1 *Id.*

2 In light of Plaintiff's explanation that the instant complaint was filed in error, the Court  
3 VACATES its April 11, 2014 Order of Dismissal as well as its April 11, 2014 Order Granting IFP  
4 Status. The Court reopens this action; however, it immediately directs the Clerk to DISMISS it as  
5 filed in error. No filing fee is due. The Finance Office has informed the Court that, to date, no  
6 payments have been received in this case; therefore, no refunds are due to Plaintiff at this time. Dkt.  
7 8.

8 The Clerk shall close the file. The Clerk shall also send a copy of this Order to the Court's  
9 Finance Office.

10 IT IS SO ORDERED.

11 DATED: August 25, 2014

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

United States District Court  
For the Northern District of California